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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,893	11/30/2001	Lester D. Miller	25113A	4198
22889	7590	07/06/2004	EXAMINER	
OWENS CORNING			AFTERGUT, JEFF H	
2790 COLUMBUS ROAD			ART UNIT	
GRANVILLE, OH 43023			PAPER NUMBER	

1733

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/997,893

**Applicant(s)**

MILLER, LESTER D.

**Examiner**

Jeff H. Aftergut

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-12, 14, 16-25 and 33-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 7-9, 16-25 and 33-36 is/are rejected.
- 7) ☒ Claim(s) 3-6, 10-12 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 2, 7, 9 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Venus-Gusmer in view of any one of Weinstein et al. Finger, Elmore et al or Newbold, Jr for the same reasons as expressed in the Office action mailed 2-3-04 paragraph 2.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 8 and 16-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The language "said first continuous loop" appears in claim 8 which lacks proper antecedent basis as no such first loop is provided for in claim 7. It is suggested that "said" be changed to --a--.

In claim 16, line 1, the claim recites that it depends from claim 15, however claim 15 has been cancelled. It is suggested that applicant change "15" to --14--.

***Allowable Subject Matter***

5. Claims 3-6, 10-12, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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It should be noted regarding claims 3-6 that the prior art of record failed to teach that the continuous mold surface was a continuous loop of individual links as defined in claim 3.

Additionally regarding claims 10-12, there is no take up roller mechanism defined in Venus-Gusmer and no reason to provide for the same in the reference.

6. Claims 8 and 16-25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art of record failed to teach the use of two continuous loops for the operation as defined in claim 8. As to claims 16-25, applicant is referred to the Office action dated 2-3-04.

***Response to Arguments***

7. Applicant's arguments filed April 30, 2004 have been fully considered but they are not persuasive.

The applicant argues that the examiner has failed to establish that Venus-Gusmer was in fact a "printed publication". The applicant argues he is unaware the Venus-Gusmer article was ever published. Taking this at fact, one must then ask where the reference came from and how applicant was able to obtain it (note that applicant was the one who provided the information in an IDS statement). While it is correct that the Office has the burden to provide "a satisfactory showing that such a document has been disseminated or otherwise made available to the extent that persons interested and ordinarily skilled in the subject matter or art exercising reasonable diligence can locate it", the applicant was able to locate it (a person who was interested in the subject matter) and it must have been made available to applicant somehow. A brief review of the reference would lend one to believe that it was not written as an internal document (i.e. why

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would a general manager, Ron Rivers, for Venus-Gusmer go into detail of the manufacturing facility and the processing involved for something which was intended to be internal to Venus-Gusmer), but rather it appears to be a discussion of new processing available to persons skilled in the art for manufacturing trailer panels. It should be noted that applicant has not disputed that there was likelihood that the reference was available prior to September of 2000 (when the name of the company changed to Magnum Venus Products (as identified by the information of the MVP Corporate History from the Internet). U.S. Patent to Miller (U.S. 6,755,633) recites the same article in the "Other Publications" and gives a date of the reference as of January 1995. The reference to Miller (US '633) is cited herein. As such it is deemed that the reference is available as prior art under 35 USC 102(b). Note that applicant is requested to respond with information as to where and how applicant became aware of the reference (as at a minimum it appears that the information was in either a periodical or a company brochure which was disseminated at a trade show or the like). It would seem that applicant was aware of the publication date (or at least was aware of the date it was made available to applicant as the reference was cited by applicant in the prosecution of US Patent '633 in an IDS with the date of January 1995).

Regarding the availability of the reference under 35 USC 102(a) as "known or used by others in this country", the applicant argues that the facility was built in China and therefore it was not known "in this country" as such requires it be in the United States. However, Ron Rivers clearly worked for a company located in the United States. Venus-Gusmer was clearly manufacturing truck panels in this country (not only in China) and the turnkey facility built in China was designed in the United States. The article described various facilities including ones located in the United States which incorporated Venus-Gusmer products therein for

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manufacturing the truck panels. Clearly, viewing this, it is evident that at least Mr. Rivers had knowledge which he was willing to provide openly regarding techniques useful for making truck panels and thus the public knowledge is deemed to have been in the United States.

The applicant also argues that the claims require a continuous mold surface and that the reference to Venus Gusmer shows a plurality of molds. The applicant is advised that the claimed "continuous mold surface" as defined in claim 34 is "an upper movable surface being arranged in a longitudinal direction and a feed mechanism to continuously feed sheet onto said upper movable surface". The reference to Venus-Gusmer provided a plurality of molds which were fed side by side to present a "continuous mold surface" which was "an upper movable surface arranged in a longitudinal manner" as the molds were disposed side by side for feeding along the conveyor through the arrangement. The reference additionally provided for the feeding of a sheet material to the moving mold surface which was the feeding of a Mylar film onto the same (note that applicant described the feeding of Mylar as the sheet material in their own description. Additionally, note that the specification appears to define the continuous mold surface as the links which were arranged side by side and which were used to feeding the material along in the operation (note that as such that applicant has not defined over the arrangement of the mold surfaces in Venus Gusmer). If applicant wishes to recite the arrangement of links, then the claims should reflect the same because the disposing of mold surfaces adjacent one another reads directly upon the "continuous mold surface" provided by applicant in the claims.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Miller is cited to show that the article from Venus Gusmer was in fact available as

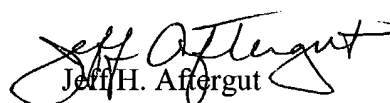
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prior art more than a year prior to applicant's filing of this application as applicant identified the date in the IDS submitted in that application as being January 1995.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff H. Aftergut whose telephone number is 571-272-1212. The examiner can normally be reached on Monday-Friday 7:15-345 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on 571-272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Jeff H. Aftergut  
Primary Examiner  
Art Unit 1733

JHA  
June 30, 2004